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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,279	06/09/2006	Gerd Klock	31113/C720	1615
4743 MARSHALL	4743 7590 06/21/2007 MARSHALL, GERSTEIN & BORUN LLP		EXAMINER	
233 S. WACKER DRIVE, SUITE 6300			LONG, SCOTT	
SEARS TOWI CHICAGO, IL			ART UNIT	PAPER NUMBER
,			1633	•
	·	,	-	
•			MAIL DATE	DELIVERY MODE
•		•	06/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)				
		10/582,279	KLOCK ET AL.				
	Office Action Summary	Examiner	Art Unit				
		Scott D. Long	1633				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
WHICHE - Extension after SIX - If NO per - Failure to Any reply	TTENED STATUTORY PERIOD FOR REPLY EVER IS LONGER, FROM THE MAILING DATE in soft ime may be available under the provisions of 37 CFR 1.13 (6) MONTHS from the mailing date of this communication. iod for reply is specified above, the maximum statutory period we reply within the set or extended period for reply will, by statute, a received by the Office later than three months after the mailing atent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status	·						
1)⊠ R€	esponsive to communication(s) filed on 6/9/20	<u>006</u> .					
2a) <u></u> ⊤r	This action is FINAL. 2b) This action is non-final.						
•	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.							
Disposition	of Claims						
4)⊠ Claim(s) <u>1 and 8-16</u> is/are pending in the application.							
•	4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.							
6)□ CI	aim(s) is/are rejected.						
	aim(s) is/are objected to.						
8) Claim(s) 1 and 8-16 are subject to restriction and/or election requirement.							
Application	Papers						
9) <u></u> Th∉	e specification is objected to by the Examine	г.					
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Ap	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11)∐ Th	e oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.				
Priority und	ler 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:							
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority documents have been received in Application No							
	Copies of the certified copies of the prior						
	application from the International Bureau	(PCT Rule 17.2(a)).					
* See the attached detailed Office action for a list of the certified copies not received.							
Attachment(s)		_					
	f References Cited (PTO-892) f Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summary Paper No(s)/Mail Da					
3) Informati	ion Disclosure Statement(s) (PTO/SB/08) o(s)/Mail Date	5) Notice of Informal P					

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- Group I, claims 1 and 8-16, drawn to isolated nucleic acids comprising SEQ ID NO:1; pharmaceutical preparation thereof; diagnostic kit; and method of manufacture.
- Group I, claims 1 and 8-16, drawn to isolated nucleic acids comprising SEQ ID NO:1; pharmaceutical preparation thereof; diagnostic kit; and method of manufacture.
- Group II claims 1 and 8-16, drawn to isolated nucleic acids comprising SEQ ID NO:2 pharmaceutical preparation thereof; diagnostic kit; and method of manufacture.
- Group III claims 1 and 8-16, drawn to isolated nucleic acids comprising SEQ ID NO:3; pharmaceutical preparation thereof; diagnostic kit; and method of manufacture.

Group IV, claims 1 and 8-16, drawn to isolated nucleic acids comprising SEQ ID

NO:4; pharmaceutical preparation thereof; diagnostic kit; and method of

manufacture.

Group V, claims 1 and 8-16, drawn to isolated nucleic acids comprising SEQ ID

NO:5; pharmaceutical preparation thereof; diagnostic kit; and method of

manufacture.

Group VI, claims 1 and 8-16, drawn to isolated nucleic acids comprising SEQ ID

NO:6; pharmaceutical preparation thereof; diagnostic kit; and method of

manufacture.

Group VII, claims 1 and 8-16, drawn to isolated nucleic acids comprising SEQ ID

NO:7; pharmaceutical preparation thereof; diagnostic kit; and method of

manufacture.

Group VIII, claims 1 and 8-16, drawn to isolated nucleic acids comprising SEQ ID

NO:8; pharmaceutical preparation thereof; diagnostic kit; and method of

manufacture.

Group IX, claims 1 and 8-16, drawn to isolated nucleic acids comprising SEQ ID

NO:9; pharmaceutical preparation thereof; diagnostic kit; and method of

manufacture.

The inventions listed as Groups I-IX do not relate to a single general inventive

concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or

corresponding special technical features for the following reasons: The inventions are

drawn to multiple methods and multiple products, therefore as per 37 CFR § 1.475(a)-

Application/Control Number: 10/582,279 Page 4

Art Unit: 1633

(d), applications containing claims drawn to more than one categories of invention (as defined by section (b)) are not considered to have unity of invention (see particularly section (c)). See the following:

37 CFR § 1.475 Unity of invention before the International Searching Authority, the International Preliminary Examining Authority and during the national stage.

- (a) An international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.
- (b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:
- (1) A product and a process specially adapted for the manufacture of said product; or
- (2) A product and process of use of said product; or
- (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
- (4) A process and an apparatus or means specifically designed for carrying out the said process; or
- (5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.
- (c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present.
- (d) If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c).

Art Unit: 1633

In addition to the reasons cited above, the nucleic acid sequences are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleic acid is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141 et seq.

Therefore there is no special technical feature, as required for co-examination and restriction is required because there is no unity of invention or inventive step. A single group must be elected.

Response Requirement

Applicant is advised that the reply to this requirement to be complete must include (i) an election of an invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions are not patentably

distinct, applicant should submit evidence or identify such evidence now of record

showing the inventions to be obvious variants or clearly admit on the record that this is

the case. In either instance, if the examiner finds one of the inventions unpatentable

over the prior art, the evidence or admission may be used in a rejection under 35

U.S.C.103(a) of the other invention.

Multiple Inventors

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Art Unit: 1633

Examiner Contact Information

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Scott Long whose telephone number is 571-272-9048.

The examiner can normally be reached on Monday - Friday, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Joseph Woitach, can be reached on 571-272-0739. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Long
Patent Examiner
Art Unit 1633

*IJanet L. Epps-Fordl*Primary Examiner
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JLE